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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 3192 of 2005
Date of decision: 18.12.2007

Sheela and another **...Appellants**

Versus

Punjab Urban Planning and Development Authority and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sarjit Singh, Senior Advocate with
Mr. Naresh Jain, Advocate for the appellants

Mr. R.K.Sharma, Advocate for the respondents.

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RAJESH BINDAL, J.

The plaintiffs are in second appeal before this Court against the judgment and decree of the learned Lower Appellate Court whereby that of the trial Court was reversed in a suit for permanent injunction filed by the appellants.

It was pleaded by the appellants that Gurnam Kaur was the original land owner. The land in dispute was acquired by the respondents. To challenge the same Gurnam Kaur filed Civil Writ Petition No. 2436 of 1983. The writ petition filed by Gurnam Kaur was accepted by this Court. However, in Special Leave Petition filed by the State against that judgment, the judgment of this Court was reversed and notification was upheld. However, in number of other cases where this Court had accepted the petition filed by land owners, in the Special Leave Petition filed before Hon'ble the Supreme Court, the orders passed by this Court were upheld and infact the respondent-State was in curative petition before Hon'ble the Supreme Court to get the controversy resolved. The appellants purchased land from original owner, namely, Gunwant Kaur vide registered sale deed dated March 26, 1996. Though the trial Court decreed the suit filed by the appellants/plaintiffs, however, learned Lower Appellate Court reversed the

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same.

Learned counsel for the appellants argued that as the matter in dispute is pending before Hon'ble the Supreme Court, this appeal should await the judgment thereon. On the other hand, learned counsel for the respondents submitted that appellants do not have any locus to file the present suit. They are seeking injunction against true owner. The acquisition of the land has already been upheld in the case of the appellants and infact the vendor of the appellants had already received compensation for the acquired land also. The sale deed in favour of the appellants was registered much after the acquisition was upheld by Hon'ble the Supreme Court.

Having heard learned counsel for the parties, I do not find any merit in the contentions raised by learned counsel for the appellants.

The land in question was acquired by respondents vide notification dated December 12, 1974. Though this Court had set aside the acquisition, however, in the case of the vendor to the appellants, the judgment of this Court was reversed and Hon'ble the Supreme court upheld acquisition proceedings. This fact is not denied by the counsel for the appellants. The sale deed in favour of the appellants was registered on March 26, 1996 whereas acquisition of land was upheld in appeal filed by the respondents in terms of the earlier order passed by Hon'ble the Supreme Court in Civil Appeal No. 2218-2220 of 1984 decided on May 5, 1987. Further, it is specifically noticed by learned District Judge in para 13 of the judgment that compensation regarding acquisition of land had been received by Gurnam Kaur mother of Gunwant Kaur, vendor of the appellants. It is not disputed that even in the case of the appellants, the acquisition proceedings were upheld much prior to the execution of the sale deed in their favour by Gunwant Kaur.

Once the factum of acquisition of land, judgment of Hon'ble the Supreme Court upholding the acquisition after reversing the judgment of this Court, receipt of compensation by the vendor to the appellants and registration of sale deed in favour of the appellants much after the acquisition proceedings had already been upheld are not in dispute, the

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contention raised by learned counsel for the appellants to the effect that they are entitled to injunction restraining the respondents from interfering in their possession is not only totally misconceived but a total misuse of process of law.

Learned Lower Appellate Court had rightly rejected the claim made by the appellants. No substantial question of law arises in the present appeal.

Accordingly, the appeal is dismissed.

December 18, 2007 **(Rajesh Bindal)**
Pka **Judge**